IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO.261 OF 2006

Hardaram D. Patel. ..Petitioner.

Mr. K.S. Tripathi for the Petitioner.

Mr. Rajeshwar i/by Leega Apex for the Respondent.

CORAM : R.S. MOHITE, J.
DATED : 7TH DECEMBER,2006.

P.C.

1. This company petition seeks winding up on the ground of non payment of goods sold and delivered. The total claim in the petition is for Rs.3,39,528/-. The defence is that the goods were defective. Reliance is placed upon three documents alleged to have been sent by fax. There is no fax machine endorsement in respect of those documents. My attention was invited to invoices wherein there is a note that the goods were short by weight. The fact that the goods were short by weight is not recorded in any of the letters which have been relied upon in the reply. Prima facie, I find that the defence does not appear to be honest. In the circumstances, four weeks time is granted to deposit the claimed amount in the court. If the amount is deposited in the court, company petition to stand dismissed with liberty to the petitioner to withdraw the said amount. If the said amount is not deposited within the aforesaid period,

petition to stand admitted and to be advertised in the Free Press Journal, Navshakti as well as in the Official Gazette. If the petition is required to be advertised, then petitioner to deposit Rs.5000/- towards the costs of the publication. The petitioner will be at liberty to get his claim established through a Court of Law and if any such suit is filed then amount stand transferred to the suit account.

(R. S. MOHITE, J.)